

M/D 1

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA

RECEIVED

2007 AUG 22 A 10:02

James West 110915

Full name and prison name of  
Plaintiff(s)

v.

Bayan K. Harris, Co I,  
Lead Library Supervisor, et al.,

Name of person(s) who violated your  
constitutional rights. (List the names  
of all the person.)

DEBRA P. HACKETT, CLK

U.S. DISTRICT COURT

MIDDLE DISTRICT OF ALABAMA

CIVIL ACTION NO. 2:07-cv-141-WKW  
(To be supplied by Clerk of U.S. District  
Court)

I. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court dealing with the same or similar facts involved in this action? YES ☐ No ☐
- B. Have you begun other lawsuits in state or federal court relating to your imprisonment? YES ☐ NO ☒
- C. If your answer to A or B is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this previous lawsuit:

Plaintiff(s) N/A

Defendant(s) N/A

2. Court (if federal court, name the district; if state court, name the county)

N/A

3. Docket number N/A
4. Name of judge to whom case was assigned \_\_\_\_\_
5. Disposition (for example: was the case dismissed? Was it appealed? Is it still pending ?) N/A
6. Approximate date of filing lawsuit N/A
7. Approximate date of disposition N/A

II. PLACE OF PRESENT CONFINEMENT Easterling Prison, 200 Wallace Drive, Clco, Alabama 36017

PLACE OR INSTITUTION WHERE INCIDENT OCCURRED Easterling Prison  
200 Wallace Drive, Clco, Alabama 36017

III. NAME AND ADDRESS OF INDIVIDUAL(S) YOU ALLEGE VIOLATED YOUR CONSTITUTIONAL RIGHTS.

NAME

ADDRESS

1. Bryan K. Lewis, Easterling Prison, 200 Wallace Dr., Clco, Al. 36017
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

IV. THE DATE UPON WHICH SAID VIOLATION OCCURRED July 24, 2007

V. STATE BRIEFLY THE GROUNDS ON WHICH YOU BASE YOUR ALLEGATION THAT YOUR CONSTITUTIONAL RIGHTS ARE BEING VIOLATED:

GROUND ONE: First Amendment, U.S. Constitution right to access to Courts, and (2) retaliation for filing grievances

VI. STATE BRIEFLY EXACTLY WHAT YOU WANT THE COURT TO DO FOR YOU. MAKE NO LEGAL ARGUMENT. CITE NO CASES OR STATUTES.

Issue order to allow me access to prison law library,  
adequate legal materials, and include in that order that Plaintiff  
be allowed to amend Complaint after he is allowed to use  
law library and has been provided adequate legal materials to  
amend his Complaint. (See attached statement)

James West  
Signature of plaintiff(s)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 30, 2007  
(Date)

James West  
Signature of plaintiff(s)

Ground One Facts Continued

I requested additional legal materials on July 24, 2007 and access to the prison law library for 2-3 hours to prepare for personal appearance in Montgomery County Circuit Court on August 8, 2007. (See attached Exhibit - C)

Mr. Hovins told me he was under direct orders not to give me anything. (See Exhibits - A, B) The only request I have ever made of Mr. Hovins is for legal materials or access to the law library. On July 24, 2007, I also requested Mr. Hovins provide me the name of the individual (A) who ordered him "not to give me anything." He would not give me the name (A) of the individual (A). I had been denied access to adequate legal materials and physical access to the law library on other occasions.

Retaliation, Facts Continued

I was transferred from Draper Prison to Easterling Prison, on December 14, 2006. I was transferred from Draper to Easterling because of grievances/complaints I filed while assigned to Draper.

I had filed an administrative complaint and a complaint on the unconstitutional living conditions at Draper Prison. I forwarded a copy of that complaint to Senator Richard Shelby and the State Health Department.

Senator Shelby contacted Commissioner Richard Allen and requested he investigate the matters I complained of and to notify him of the findings of the investigation. (See Exhibit - D) Senator Shelby also notified me that he contacted Commissioner Allen. (See Exhibit - E)

Mr. DeLoach transferred me after informing Commissioner Allen that my allegations were without merit. I received a letter from Mr. Allen dated December 12, 2006 wherein he stated as follows:

"Your letter to Richard Shelby was forwarded to my office for a response. I contacted Warden James DeLoach to obtain information in order to answer your letter.

I have been advised that the allegations you wrote about in your letter have not been investigated and are without merit. By your own admission to Warden DeLoach, you do not want to be assigned to Draper and "if you file enough complaints Warden DeLoach will transfer you back to Bibb County where you want to be."

I would encourage you to follow the proper procedures for obtaining a transfer from Draper. I would also encourage you to display a positive behavior while incarcerated."

I notified Mr. Allen and Senator Shelby that I had been transferred to Easterling and I was being held in segregation. I was given a disciplinary and placed in disciplinary segregation for filing a grievance wherein I alleged I was being denied adequate medical treatment. After I was released from disciplinary seg I was released and placed in admin seg. because I refused to sign a living agreement with an inmate assigned to Easterling Prison. I am still being held in admin segregation. I have been held for 8 months.

Ground One facts Continued

It informed Senator Shelby it was transferred because of the complaints it filed while assigned to Draper. I further explained that it had been placed in segregation because it filed the complaints at Draper and because it filed grievances at Easterning.

Senator Shelby responded to my grievances and requested that Mr. Allen investigate the cause of me being held in segregation. In a letter dated February 8, 2007 Senator Shelby requested Mr. Allen investigate the matter as follows:

"I have enclosed correspondence from James Eick which provides new information regarding the conditions of his incarceration. I ask that you carefully review the afore mentioned information and provide both the Constituent and myself with a response explaining your recommendations".

No further investigation was conducted regarding why it had been placed in segregation. It filed a grievance wherein it alleged that the transfer was arranged by DeLoach and Mosley. Mosley knew that there was an inmate assigned to Easterning that she had placed me in seg for six (6) months in 2002.

Also, Central Classification and Central Records did not know I had been transferred from Draper. My father died on December 13, 2006 and my family was unable to contact me until January 3, 2007. It appeared no one but me, Mosley and DeLoach knew about the transfer.

Relief Requested (Continued)

With all due respect, Your Honor, I submit to the Court that the reasons it are requesting the Court include in its order that it be allowed to amend my complaint after the defendant(s) are ordered to allow me access to legal materials and physical access to the law library is that there will be six (6) or more defendants in the suit. I was preparing the 31983 complaint prior to being transferred to Montgomery County Circuit Court. I had a hearing set for August 8, 2007.

Montgomery County Sheriff's Department allowed me to have the paperwork for my state case. All my paperwork I had completed on my 31983 complaint got lost or misplaced. When I was transferred back to Easterning prison I did not have the paperwork.

Prior to me being transferred on August 3, 2007, I notified Debra Haskett that the business office lost one of the due process papers form and she immediately mailed me another form. I submitted that form and I received it on August 6, 2007 when transferred to Montgomery County on August 3, 2007.



Relief Requested (Continued)

I must respectfully request that the Court consider the following.

(1) Temporary transfer to another state prison where at an allowed physical access to the law library facilities; (2) because I am being held in admin seg (non-primitive) that I be allowed physical access to the prison law library at Easterling; (under the present practice regarding use of the law library, the defendant, Mr. Harris, must be present when the computer terminal is in use and he must approve of any and everything copied or photocopied, therefore I submit to the Court I will be substantially prejudiced in being denied favorable case holdings because my present complaints and grievances involve ADOC employees); (3) that the defendant, Bryan who issued him an order not to give me anything; (4) that this Court cause appropriate action to be taken wherein I do not have reason to be concerned for my personal safety because of this and other complaints/grievances I have filed regarding conduct of ADOC employees; (5) that this Court consider appointing a representative to screen and/or investigate allegations which include criminal conduct by perhaps ADOC employees. I make this request because it will include an allegation that Mosley withheld and/or concealed information regarding a criminal offense committed by an officer assigned to Easterling. Because Mosley was moved from the position of Warden at Easterling Prison and now works at the Commissioner's Office, I submit that any investigation conducted by U.S. Division, if conducted, would be biased and prejudicial to me.

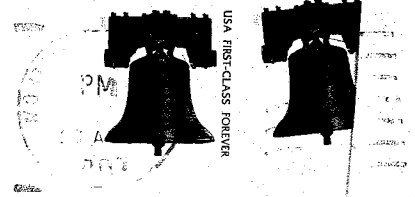
I am also notifying the Office of the Attorney General and a copy to the Governor regarding my allegations of unethical, unauthorized and criminal conduct.

Respectfully submitted this the 20th day of August 2007.

James West 110315  
B-30  
Easterling Prison  
200 Walnut Drive  
Chocoma, Alabama 36017

*James West 110315*  
*B-30*

EASTERLING CORRECTIONAL FACILITY  
200 WALLACE DRIVE  
CLIO, ALABAMA 36017



*Debra P. Hisebett*  
*Clerk*  
*U.S. District Court*  
*P.O. Box 711*  
*Montgomery, Alabama 36101-0711*

"This correspondence is forwarded from  
an Alabama State Prison. The contents have  
not been evaluated, and the Alabama Department  
of Corrections is not responsible for the substance  
or content of the enclosed communication."

Exhibit - A

Affidavit

Before Me the undersigned authority, a Notary Public in and for said County and State of Alabama at Large personally appeared before me James West, who is known to me and being first duly sworn, states on oath as follows.

My name is James West. I am over the age of nineteen (19). I submit the following statements based on my personal knowledge. I am competent to testify.

On July 24, 2007, I requested a manilla file folder from Bryan Havins, Law Library Supervisor, Easterning Prison. DOC provides manilla file folders as well as other legal materials and the folders are issued upon request of the inmate. I also requested extra paper and carbon.

On the above date I requested the file folder to keep my notes on a pending case in Montgomery County Circuit Court. A hearing has been scheduled for August 8, 2007 and I informed Mr. Havins I needed the folder because I did not have anything I could use to keep my notes when I'm transferred to Court for the hearing.

Mr. Havins responded to my request as follows: "West, I am under orders not to give you anything. I want you to know that it's nothing personal. But I have been given specific orders not to give you anything". I did not get the manilla file folder.

I have requested permission from Mr. Havins and Mr. Davenport, Acting Warden, to allow me physical access to the law library for 2-3 hours. I made the request for the purpose of being able to research and make notes in the Complaint I have filed in Montgomery County Circuit Court. I have a personal appearance set for that case for August 8, 2007. All requests have, for all practical purposes, been denied. By that statement I am saying Mr. Davenport nor Mr. Havins, will deny the written request they simply ignore it. I am being held in administrative segregation, non-punitive. I have been held in segregation since December 20, 2006. I was placed in segregation because I told Warden Masley and Assistant Warden, Davenport, that I could not live peacefully with the inmate in the general prison population. Because of this I have been held in seg for approximately eight (8) months.

I was transferred from Easterning Prison on or about May 2, 3, 2003 because of the reason stated above. I was held in admin seg for over six months during that time.

I was transferred from Bibb County Prison to Draper Prison on July 3, 2006. I was transferred because of grievances I filed at Bibb County. I was transferred from Draper to Easterning on December 14, 2006 because I also filed administrative complaints and I assisted other inmates in filing grievances and complaints.



Because some of the allegations I intend to present to this Court could result in criminal prosecution and/or termination of employment of those ADOC employee(s), I most respectfully request this Honorable Court consider allowing me an opportunity to disclose to a representative or agent selected by this Court to hear and screen my claims and after the Court has heard the nature and substance of these allegations, that the Court consider issuing or causing to be issued, appropriate order wherein I am to be temporarily located at a different state prison where I am allowed physical access to adequate legal materials and law library facilities to prepare and present my claims to this Court. Further affiant saith not.

James West  
Affiant

State of Alabama  
Barbour County

Subscribed and witnessed under my hand and seal  
this the 31 day of July 2007.

Br K. Davis  
Notary

My commission expires 6-7-2010.

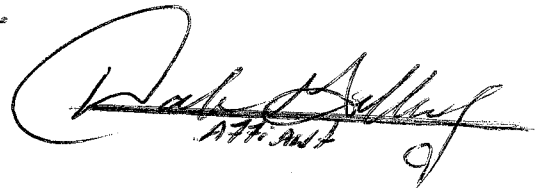
Exhibit-B

ATTIDAVIT:

Before me the undersigned Authority, A Notary public in and for said county and state of Alabama at large, personally appears before me DALE Gilley, who being known to me and being first duly sworn SAYS ON OATH AS FOLLOWS.

my name is DALE Gilley. I am over the age of 19. I make the following statement under oath and based on my personal knowledge. I am competent to testify.

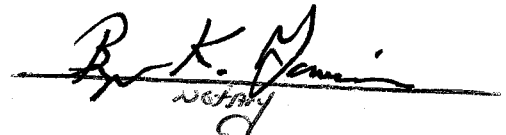
on July, 24, 2007, I was being housed in cell 27 in the segregation unit, and sharing said cell with inmate JAMES WEST, at Easterling prison. I personally heard inmate WEST ask officer BRIAN GAVINS, Law Library supervisor, for a brown VANILLA Tite folder. Officer GAVINS stated to inmate WEST, "WEST, I am under orders not to give you anything. I want you to know that its nothing personal, but I have been given specific orders not to give you anything. Further, Affiant sayeth not."

  
Affiant 9

State of ALABAMA

Barbour County

Sworn to and witnessed under my hand and seal  
this the 31 day of July, 2007.

  
Notary

my commission expires 6-7-2010

Exhibit - C  
FILED  
CIRCUIT COURT OF  
MONTGOMERY COUNTY

IN THE CIRCUIT COURT  
MONTGOMERY COUNTY, ALABAMA

2007 JUL -3 AM 9:54

JAMES WEST AIS# 110315,  
Plaintiff,

vs.

CASE NO. CV- 07-441 PR

STATE PERSONNEL BOARD et al.,  
Defendant.

ORDER

The Montgomery County Sheriff's Department is hereby ORDERED to transport the above defendant from the Department of Corrections EASTERLUNG Correctional Facility, to the Montgomery County Detention Facility on AUGUST 8, 2007 for FINAL HEARING at 8:30 a.m. in Courtroom 4C.

DONE this 2<sup>nd</sup> day of JULY 20 07.

Charles Price  
CHARLES PRICE, Circuit Judge

RICHARD SHELBY  
ALABAMA

CHAIRMAN—COMMITTEE ON BANKING, HOUSING,  
AND URBAN AFFAIRS

COMMITTEE ON APPROPRIATIONS

CHAIRMAN—SUBCOMMITTEE ON COMMERCE,  
JUSTICE, AND SCIENCE

SPECIAL COMMITTEE ON AGING

110 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-0103  
(202) 224-5744

<http://shelby.senate.gov>

E-mail: senator@shelby.senate.gov

United States Senate  
WASHINGTON, DC 20510-0103

November 7, 2006

Richard Allen  
Alabama Department of Corrections  
301 S. Ripley St.  
Montgomery, Alabama 36104-4425

COPY

STATE OFFICES:

- 1800 FIFTH AVENUE NORTH  
321 FEDERAL BUILDING  
BIRMINGHAM, AL 35203  
(205) 731-1384
- HUNTSVILLE INTERNATIONAL AIRPORT  
1000 GLENN HEARN BOULEVARD  
BOX 20127  
HUNTSVILLE, AL 35824  
(256) 772-0460
- 113 SAINT JOSEPH STREET  
445 U.S. COURTHOUSE  
MOBILE, AL 36602  
(251) 694-4164
- 15 LEE STREET  
FMJ FEDERAL BLDG., SUITE 208  
MONTGOMERY, AL 36104  
(334) 223-7303
- 1118 GREENSBORO AVENUE, #240  
TUSCALOOSA, AL 35401  
(205) 759-5047

Dear Mr. Allen:

Enclosed, please find a copy of correspondence I received from James West.

Please review the enclosed and address the concerns raised. I have notified my constituent to expect a timely reply directly from you.

Sincerely,

Richard Shelby

Richard Shelby

COPY

RCS/nls  
Enclosure

RICHARD SHELBY  
ALABAMA

CHAIRMAN—COMMITTEE ON BANKING, HOUSING,  
AND URBAN AFFAIRS

COMMITTEE ON APPROPRIATIONS

CHAIRMAN—SUBCOMMITTEE ON COMMERCE,  
JUSTICE, AND SCIENCE

SPECIAL COMMITTEE ON AGING

110 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-0103  
(202) 224-5744

<http://shelby.senate.gov>

E-mail: senator@shelby.senate.gov

United States Senate  
WASHINGTON, DC 20510-0103

November 7, 2006

Mr. James West  
110315  
Post Office Box 1107  
Elmore, Alabama 36025-9900

Dear Mr. West:

Thank you for taking the time to contact me regarding conditions at Draper Prison.

I have contacted the Alabama Department of Corrections on your behalf and have asked them to respond to your concerns. You should expect a reply to your concerns directly from the agency in a timely manner. Please do not hesitate to contact me about this or other matters in the future.

Sincerely,



Richard Shelby

RCS/nls

STATE OFFICES:

- 1800 FIFTH AVENUE NORTH  
321 FEDERAL BUILDING  
BIRMINGHAM, AL 35203  
(205) 731-1384
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- 1118 GREENSBORO AVENUE, #240  
TUSCALOOSA, AL 35401  
(205) 759-5047